

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

January 26, 2022

3:32 p.m.

MEMBERS PRESENT

Senator Joshua Revak, Chair
Senator Peter Micciche, Vice Chair
Senator Gary Stevens
Senator Natasha von Imhof
Senator Jesse Kiehl
Senator Scott Kawasaki

MEMBERS ABSENT

Senator Click Bishop

COMMITTEE CALENDAR

SENATE BILL NO. 85

"An Act relating to forest land use plans; relating to forest land use plan appeals; relating to negotiated timber sales; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 79(FIN)

"An Act relating to sport fishing operators and sport fishing guides; requiring the Department of Fish and Game to prepare and submit a report; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 85

SHORT TITLE: FOREST LAND USE PLANS; TIMBER SALES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/12/21	(S)	READ THE FIRST TIME - REFERRALS
02/12/21	(S)	RES, FIN
04/28/21	(S)	RES AT 3:30 PM BUTROVICH 205
04/28/21	(S)	-- MEETING CANCELED --
05/03/21	(S)	RES AT 3:30 PM BUTROVICH 205
05/03/21	(S)	Heard & Held

05/03/21 (S) MINUTE (RES)
 01/26/22 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HB 79

SHORT TITLE: SALTWATER SPORTFISHING OPERATORS/GUIDES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/18/21 (H) READ THE FIRST TIME - REFERRALS
 02/18/21 (H) FSH, FIN
 02/23/21 (H) FSH AT 10:00 AM GRUENBERG 120
 02/23/21 (H) Heard & Held
 02/23/21 (H) MINUTE (FSH)
 02/25/21 (H) FSH AT 10:00 AM GRUENBERG 120
 02/25/21 (H) -- MEETING CANCELED --
 03/02/21 (H) FSH AT 10:00 AM GRUENBERG 120
 03/02/21 (H) Moved CSHB 79 (FSH) Out of Committee
 03/02/21 (H) MINUTE (FSH)
 03/03/21 (H) FSH RPT CS (FSH) NEW TITLE 2DNP 1NR 4AM
 03/03/21 (H) DNP: MCCABE, VANCE
 03/03/21 (H) NR: TARR
 03/03/21 (H) AM: KREISS-TOMKINS, ORTIZ, STORY,
 STUTES
 04/08/21 (H) FIN AT 9:00 AM ADAMS 519
 04/08/21 (H) <Bill Hearing Canceled>
 04/13/21 (H) FIN AT 9:00 AM ADAMS 519
 04/13/21 (H) Heard & Held
 04/13/21 (H) MINUTE (FIN)
 04/13/21 (H) FIN AT 1:30 PM ADAMS 519
 04/13/21 (H) Heard & Held
 04/13/21 (H) MINUTE (FIN)
 04/20/21 (H) FIN AT 9:00 AM ADAMS 519
 04/20/21 (H) Heard & Held
 04/20/21 (H) MINUTE (FIN)
 04/22/21 (H) FIN AT 1:30 PM ADAMS 519
 04/22/21 (H) Moved CSHB 79 (FIN) Out of Committee
 04/22/21 (H) MINUTE (FIN)
 04/26/21 (H) FIN RPT CS (FIN) NEW TITLE 7DP 1DNP 2NR
 1AM
 04/26/21 (H) DP: ORTIZ, EDGMON, LEBON, CARPENTER,
 JOSEPHSON, WOOL, THOMPSON
 04/26/21 (H) DNP: JOHNSON
 04/26/21 (H) NR: MERRICK, FOSTER
 04/26/21 (H) AM: RASMUSSEN
 04/26/21 (S) RES AT 3:30 PM BUTROVICH 205
 04/26/21 (S) <Bill Hearing Canceled>
 05/19/21 (H) TRANSMITTED TO (S)
 05/19/21 (H) VERSION: CSHB 79 (FIN)

05/19/21 (S) READ THE FIRST TIME - REFERRALS
05/19/21 (S) RES, FIN
01/26/22 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

BRENT GOODRUM, Deputy Commissioner
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Introduced SB 85.

HELGE ENG, State Forester and Director of Forestry
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Provided testimony on SB 85.

CHRISTOPHER ORMAN, Assistant Attorney General
Alaska Department of Law
Juneau, Alaska

POSITION STATEMENT: Invited testimony on SB 85.

DOUG VINCENT-LANG, Commissioner
Alaska Department of Fish and Game
Anchorage, Alaska

POSITION STATEMENT: Introduced HB 79 on behalf of the
administration.

RACHEL HANKE, Legislative Liaison
Alaska Department of Fish and Game
Soldotna, Alaska

POSITION STATEMENT: Paraphrased the sectional analysis for HB
79.

ED MARTIN JR., Representing Self
Kenai, Alaska

POSITION STATEMENT: Suggested improvements to HB 79.

KARI NORE, Project Manager
Resource Development Council for Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 85 and the
Council submitted written comments.

TESSA AXELSON, Executive Director
Alaska Forest Association
Ketchikan, Alaska

POSITION STATEMENT: Testified in support of SB 85.

ED MARTIN JR., Representing Self
Kenai, Alaska

POSITION STATEMENT: Testified in support of SB 85.

ACTION NARRATIVE

[3:32:29 PM](#)

CHAIR JOSHUA REVAK called the Senate Resources Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators Kawasaki, Kiehl, Micciche, Stevens and Chair Revak. Senator von Imhof arrived soon thereafter.

SB 85-FOREST LAND USE PLANS; TIMBER SALES

[3:33:44 PM](#)

CHAIR REVAK announced the consideration of SENATE BILL NO. 85 "An Act relating to forest land use plans; relating to forest land use plan appeals; relating to negotiated timber sales; and providing for an effective date."

[3:34:28 PM](#)

SENATOR VON IMHOF joined the meeting.

[3:34:41 PM](#)

BRENT GOODRUM, Deputy Commissioner, Department of Natural Resources, Anchorage, Alaska, introduced SB 85 as follows:

This bill seeks to modernize our timber sales process. The proposed modifications to these statutes will help grow predictability and jobs in Alaska's timber industry, an industry that has longed for more flexible negotiated timber sales necessary to meet the current needs of their intended markets. The benefits of enacting SB 85 will result in more efficient land use planning and more predictable timber harvests. Importantly, SB 85 is a zero fiscal note. Presenting SB 85 this afternoon will be Director Helge Eng, Alaska's new State Forester. Director Eng has 42 years of experience practicing forestry and fire protection in the western United States, British Columbia, and Scandinavia. Director Eng worked for the California Department of Forestry and Fire Protection for thirty years in a variety of capacities within both forestry and fire protection assignments. He retired from Cal Fire as Deputy Director for Forestry and was then appointed as the director of Alaska Division of

Forestry (DOF) after Chris Maisch retired in early December 2021. Director Eng is very excited about the opportunity to lead the Division of Forestry during a critical time as our landscape faces new challenges from increasing wildfire threats and tree mortality from spruce beetle infestation.

[3:36:35 PM](#)

HELGE ENG, State Forester and Director of Forestry, Department of Natural Resources, Anchorage, Alaska, provided testimony on SB 85. He indicated that this bill is comprised of two major categories:

- 1) The benefits of contractual certainty on forest land use plans; and
- 2) A more efficient and flexible timber sale process to assist the timber industry.

MR. ENG presented a slideshow entitled "Forest Land Use Plans, Negotiated Timber Sales." Slide 2, Contents:

- I. SE Alaska timber industry is struggling to survive
- II. How to protect timber jobs?
 1. Change negotiated timber sale statutes to allow local industry to sell all the timber it harvests, as export if needed.
 2. Provide contractual certainty: stable and predictable supply of timber once a timber sale has been purchased.

MR. ENG stated contractual certainty is accomplished by implementing Forest Use Land Plans that are not appealable.

III. Sectional Analysis

[3:38:20 PM](#)

MR. ENG advanced to slide 3, The Timber Industry in Alaska is Struggling to Survive:

A dwindling supply of timber from the US Forest Service has gutted the timber industry in Southeast Alaska.

MR. ENG stated that the U.S. Forest Service actively seeks to repeal the exemption for the Tongass National Forest roadless rule. This has resulted in the shutdown of old growth timber sales from the Tongass National Forest. It was a blow to the timber industry in Southeast Alaska which has grown dependent on a reliable Tongass timber supply. He said that, in response to the decline, the governor introduced this bill to streamline the timber sale process, make it more flexible, and more efficient. The governor also increased the amount of purchasable state timber available to timber operators.

SE Alaska supports only 325 timber industry jobs today, compared to 4,000 jobs in the 1990s. Now, even those jobs are in danger.

MR. ENG noted that the Southeast Alaska timber industry job situation is a somber statistic; the jobs are in danger. The hope is that SB 85 will help support the industry.

Amending statutes to support the local industry in Southeast Alaska will protect existing jobs.

MR. ENG advanced to slide 4, How Can We provide and Protect Jobs:

Step 1. Change negotiated timber sale statutes to allow local industry to sell all the timber it harvests, as export if needed.

Currently, negotiated timber sales must be sold for local manufacture, not export.

- A changing timber supply (more young growth) means that some sizes of timber are not marketable in Alaska.
- Demand for certain species (e.g., hemlock) is only overseas or in the Pacific Northwest.

MR. ENG continued with Timber Sale Types: Negotiated & Competitive, slide 5:

- Negotiated sales allow DOF to choose a timber purchaser not only based on price, but also on the **number of local jobs** the sale provides.

- Local SE Alaskan operators are not able to outbid larger out-of-state companies for competitive sales.

Without a consistent timber supply, local industry and jobs will erode further.

MR. ENG noted that multiple bidders generally result in competitive timber sales where the highest bidder is selected. The competitive bid process often has a negative effect on the local industry.

[3:41:49 PM](#)

SENATOR KAWASAKI asked whether the bill is only pertinent to Southeast Alaska, or if it applies to forests statewide.

MR. ENG answered the bill applies to forests statewide.

MR. ENG continued with slide 6, How Can We Provide and Protect Jobs:

Step 2. Once a timber sale has been purchased, provide a stable and predictable supply of timber to the operator by providing contractual certainty.

MR. ENG explained that once a timber sale has been purchased, it is critical the operator have a stable and predictable timber supply. He added that a Forest Land Use Plan (FLUP) appeal can be ruinous to a logging company which typically does not have the capital to wait for an appeal to be resolved. He elaborated on this point in slide 7, Stable Timber Supply:

An appeal can halt harvesting, which can be disastrous to a logging company.

SB 85 ensures that once the decision has been made to sell the timber, no further administrative appeals can occur.

Input would still be gathered from public and agencies.

MR. ENG pointed out that the appeal option is eliminated once the decision has been made to sell the timber, however, the public input process remains intact. He said that public input on FLUPs, commonly results in the modification of harvest units, such as setbacks for the visual consideration of nearby

residential areas. DOF endeavors to complete timber sales with community support and acceptance, and in most cases, will act on and implement public requests prior to the appeals stage.

3:44:26 PM

SENATOR VON IMHOF referred to slide 3 and quoted, "A dwindling supply of timber from the US Forest Service has gutted the timber industry in Southeast Alaska." She asked for further explanation about state land and the reference to federal land.

MR. ENG responded that SB 85 pertains to state land, not federal land. The reference to the U.S. Forest Service timber supply was to set the stage, to describe why the local timber industry is in trouble.

SENATOR VON IMHOF asked how many acres of state land are available for timber harvesting.

MR. ENG responded that he will get back to the committee with the exact number.

3:45:30 PM

CHAIR REVAK requested the data be sent to the Senate Resources Office for distribution to the committee.

SENATOR VON IMHOF requested a map.

MR. ENG responded, absolutely.

3:45:45 PM

SENATOR MICCICHE qualified the following two questions, stating he is pro-timber and supports the timber industry. He asked if timber sale sites will occur in remote areas, so that the potential for negative community impact is alleviated. If not, in the absence of an appeal process, how will issues be resolved.

MR. ENG directed attention to slides 8 and 9 to answer the question. He said that there are five steps to complete a timber sale. This bill restructures the timber sale process, so that appeals may occur in three of the five steps. He highlighted that SB 85 proposes step five, Forest Land Use Plans, be unappealable. Mr. Eng reviewed slide 8, Steps in a Timber Sale:

Public and agency comment gathered at each step.

1. Area Plans*

2. State Forest Plans*

3. Five-Year Schedule of Timber Sales

4. Best Interest Finding*

- Timber may be sold after adopted.

5. Forest Land Use Plans*

- Not all Forest Land Use Plans must be issued before timber is offered for sale.
- For large sales, prepare Forest Land Use Plans in phases, as access is developed.

*Subject to appeal.

[3:47:27 PM](#)

MR. ENG continued with slide 9, Best Interest Finding vs Forest Land Use Plan:

Best Interest Finding

Decisional document:

-Should we sell this timber?

Forest Land Use Plan

On the ground Implementation:

-How will the sold timber be harvested?

MR. ENG explained that the majority of input and public opinion occurs during the Best Interest Finding; the focus is whether or not timber should be sold.

MR. ENG explained that Forest Land Use Plans are used to engineer road layouts, culvert sizes, and other development/plans requiring engineering calculations, which arguably, do not require public input.

MR. ENG explained that SB 85 proposes the appeal process occur prior to the Forest Land Use Plan step of a timber sale to ensure the operator contractual certainty. He added that the elimination of appeals in the final step also avoids redundancy; rehashing appeals resolved in earlier steps. He emphasized that plenty of public opportunity will be available for public input and appeal in the first four steps.

MR. ENG reiterated that appeals are not common on state lands. The department takes pride in the resolution of public concerns before the appeal stage. He referenced Senator Micciche's previous question and said that visual quality concerns, in a majority of cases, are resolved with additional buffers.

3:50:00 PM

MR. ENG continued with slides 10 and 11, Safeguards on Timber Harvests:

Timber harvests must adhere to the Alaska Forest Resources and Practices Act (FRPA, AS 41.17), which:

- protects fish habitat and water quality, and
- ensures prompt reforestation.
- DOF enforces FRPA through inspections, directives, stop work orders, and civil fines.
- On state-administered sales, the operator is held to the timber sale contract. Every contract includes a bond.

MR. ENG stated that every operator must put down a performance bond which acts as a guarantee that legal requirements are satisfied.

- If DOF, the landowner, or a member of the public sees a problem, DOF can issue a notice of violation, and if necessary, shut down the timber operation until the problem is remedied.

3:51:27 PM

SENATOR STEVENS commented that he appreciates FRPA requires the protection of fish habitat. He said that cutting timber to the edge of rivers and streams will destroy a fishing industry. He asked how DOF will manage timber harvests, so that the fishing industry and timber industry are both healthy.

MR. ENG answered that the Alaska Forest Resources and Practices Act have the most rigorous rules and regulations on the West Coast, including hydrology and riparian protection. FRPA has rigorous buffer zones around all streams and operations are restricted in those zones. The sustained yield mandate also protects against overharvesting, limiting harvests to the amount grown to ensure forests will regenerate after harvest. Young forests will grow back, protecting soil and water quality against erosion. The Act and rules focus on protection of water courses in riparian areas.

SENATOR STEVENS requested assurance that it is possible to have both a healthy timber industry as well as a healthy fishing industry.

MR. ENG responded that absolutely, it is possible.

3:53:55 PM

SENATOR VON IMHOF asked whether there are post-harvest replant requirements, and if so, what species must be planted.

MR. ENG answered that reforestation is required. The Act requires harvested land be restocked with a natural species mix. In Southeast Alaska, trees regrow quite readily, so it may not be necessary to replant.

MR. ENG advanced to slide 12, SB 85 Focuses Appeals at the Best Interest Finding Stage, Before Timber is Sold:

- Provides stable and predictable supply of timber once sold
- No interruptions of harvest at a subsequent Forest Land Use Plan stage
- Includes specific criteria the DNR commissioner must consider when deciding whether to offer a negotiated timber sale
- Costs nothing: Zero fiscal note

3:54:55 PM

SENATOR VON IMHOF commented on slide 12, "Costs nothing: Zero fiscal note." She said that sometimes zero fiscal notes generate revenue and asked whether this bill will generate revenue for the state.

MR. ENG answered the bill allows the timber industry to be nimbler and more effective in implementing timber sales. He expressed his belief that this bill would have a quantifiable revenue impact, but it is unknown at this point.

SENATOR VON IMHOF asked whether a per log tax, even if it is just pennies, makes sense to generate revenue. She suggested a tax similar to the fish tax.

MR. ENG said that he needed to ponder the question before he had an opinion about whether it would be viable.

3:56:29 PM

SENATOR MICCICHE asked how the timber sale process works to generate state revenue for timber sales purchased by the acre.

MR. ENG answered that every timber sale on state land provides revenue to the state. He explained that timber sales are either competitive, which means they are advertised and awarded to the highest responsible bidder, or they are negotiated. In either case, it is a transaction which allows the purchaser to harvest timber in exchange for money.

SENATOR MICCICHE interpreted the answer to mean the bill's streamlined sales process, coupled with an expanded FLUP exemption, is expected to attract a greater number of bidders and sales. He noted that this bill increases the amount of harvestable acreage eligible for the FLUP exemption from 10 to 20 acres. He agreed that until the bill is enacted, the amount of revenue expected to be generated is difficult to quantify.

MR. ENG answered yes, it is hard to quantify. He recalled slide 3 which described a beleaguered timber industry. He ruminated on the difficulty to quantify the risk of bankruptcy, the loss of revenue and jobs versus the ability for a company to carry-on and keep going. He stated that SB 85 is expected to have a positive effect on the timber industry.

3:59:47 PM

SENATOR KAWASAKI dove tailed off a previous question which pertained to reforestation requirements. He referred to slide 8, "Steps in a Timber Sale" and asked in what step of the timber sale process is reforestation required.

MR. ENG answered that the reforestation requirements occur after the Forest Land Use Plan and after the completion of the timber harvest.

SENATOR KAWASAKI stated a major part of this bill addresses the appeals process. It seems important that the public be made aware of reforestation policies up front before a timber harvest begins. He asked would it not be better to know about reforestation requirements before the Forest Land Use Plan goes into effect.

MR. ENG answered absolutely the public has a right to know. The Act requires adequate reforestation be achieved at a certain point in time after harvest, if not, DOF has authority to

require it. At some point you have to approve a timber sale, then reforestation, by necessity, takes place after the timber is harvested.

4:02:18 PM

CHRISTOPHER ORMAN, Assistant Attorney General, Alaska Department of Law, Juneau, Alaska, invited testimony on SB 85. He described a few differences between the Best Interest Finding and the Forest Land Use Plan. He said that the Best Interest Finding is a decisional document that determines whether or not timber is sold; built into it are compliance and standard requirements pursuant to the harvest of timber; and the Best Interest Finding is appealable. In contrast, the Forest Land Use Plan is an operational document; it decides how the timber will be harvested; and it is not appealable.

4:03:47 PM

SENATOR KAWASAKI said that answer clarified the reforestation question.

SENATOR KAWASAKI followed-up with a Forest Land Use Plan site prep question and asked whether the public has access to the engineering particulars prior to the construction of roads, bridges, culverts, etc... He asked if engineering documents are available for public review at any point during one of these three appealable steps: Area Plan, State Forest Plan or Best Interest Findings.

MR. ENG answered yes. He said that it is a useful distinction to differentiate between the two planning documents, but it is also an oversimplification to narrowly categorize the Best Interest Finding as the "whether to harvest" step and the Forest Land Use Plan as the "how to harvest" step.

MR. ENG referred back to the five steps in a timber sale. He said that "how to harvest" is embedded in each step of the sale, ranging from the Area Plans to the State Forest Plans to the Five-Year Schedule and the Best Interest Finding.

4:05:45 PM

SENATOR KIEHL stated that the missing key, which creates uncertainty about this bill, is a lack of "Best Interest Finding" and "Forest Land Use Plan" data. He reflected on past experience to illustrate the point. A constituent with a long driveway, may initially be fine with the construction of an uphill bypass road. However, if a 36" culvert ends up right above their home, the constituent might be deeply concerned and

want to comment. This concern parallels Senator Stevens' earlier comments related to fish habitat hazards.

SENATOR KIEHL asked which details contained in the Best Interest Finding and Forest Land Use Plan might rouse public comment.

MR. ENG stated the Best Interest Finding is focused on the general consequences of an areawide timber sale. The question associated with the Best Interest Finding is whether or not to put acreage up for sale. However, the transition between a Best Interest Finding and a Forest Land Use Plan is gradational. In the gray area, a Forest Land Use Plan is more than an engineering document.

MR. ENG gave an example to illustrate the point. Environmental and other factors were considered in a watershed where three or four timber sales occurred in the last few years. Once the public had commented on the wisdom of a timber sale in that watershed, consideration was given to the appropriate view-shed buffers and options for mitigating ecological concerns. Then, DOF's attention focuses on engineering calculations like road location and appropriate size culverts to handle 100-year storms. These calculations are not subject to appeal, because the public previously had the opportunity to appeal.

MR. ENG emphasized that it is unusual to receive an appeal on a timber sale. In a timber sale near Thorne Bay, viewshed buffers were installed to address and mitigate public concerns, which resulted in public satisfaction.

[4:09:21 PM](#)

CHAIR REVAK asked whether each step in the timber sale process, must be approved before the sale is advanced to the next step.

MR. ENG answered not necessarily. He said that in a lot of cases the Best Interest Finding and the Forest Land Use Plan occur simultaneously. On large sales, the FLUP materializes after the BIF.

MR. ENG expounded on large sales. A large sale BIF applies to the entire timber sale. FLUPS occur after the purchase and harvest units are developed sequentially as needed. Roads are built to harvest the first units and are used to leverage subsequent forest land use plans and harvest units. He said that it would be too time consuming and expensive to develop large sale FLUPS on all harvest units at one time. The purchaser would have to wait too long.

4:10:49 PM

SENATOR MICCICHE switched gears to speak on behalf of the timber operator. He stepped back to slide 8, Steps in a Timber Sale, Forest Land Use Plans:

Not all Forest Land Use Plans must be issued before timber is offered for sale.

SENATOR MICCICHE stated that it is essential operators be able to estimate operation costs prior to submitting a bid. He hypothesized that it might cost \$30,000 for a 20-acre parcel, only to discover after the sale, that the cost to reforest is \$15,000. He expressed concern that this seems out of order and asked for clarification on the process.

MR. ENG explained this statement means that some Forest Land Use Plans can be developed over time. He said that the bid on the sale is done with a high degree of certainty. For example, the reforestation requirements are already known, and an experienced operator will know the estimated cost to reforest. Forest Land Use Plans serve both the purchaser and DOF well in terms of flexibility and implementation.

MR. ENG asked whether the committee would like to proceed with the sectional analysis.

CHAIR REVAK responded that an abbreviated overview is sufficient.

4:13:34 PM

SENATOR STEVENS asked how it came to be that the state prohibited timber exports.

MR. ENG answered that the prohibition on exports is a fairly common requirement. It protects the domestic timber industry, encouraging local jobs, domestic processing facilities and value-added products, as opposed to exports which result in only one sale. He said that the question of whether to use domestic sales or export sales is a notorious financial question; SB 85 proposes both. Historically, the overwhelming majority of DOF sales have been domestic, competitive sales. However, SB 85 proposes the state take advantage of market signals and respond to the constant change of supply and demand factors.

SENATOR STEVENS asked how this bill ensures both local and export timber sales or if it may deny locals access to a timber supply.

MR. ENG answered that this bill is intended to supply both the export and domestic markets.

SENATOR STEVENS asked whether the Department of Natural Resources has the authority to ensure a balance, so that a sufficient supply of timber is available locally.

MR. ENG answered yes. The commissioner has the authority to decide the particulars of a timber sale. He noted that Section 2 of the bill contains specific criteria the commissioner uses to make timber sale decisions.

4:17:24 PM

SENATOR VON IMHOF expanded on the idea of in-state versus out-of-state timber sales. She asked whether the commissioner has the latitude to choose a lower in-state bid over a higher out-of-state bid.

MR. ENG answered yes.

SENATOR VON IMHOF stated that the nationwide shortage of timber products coupled with lumber price increases have resulted in both housing shortages and affordable housing in Alaska. She surmised that this bill could revitalize the timber industry. She envisioned, "Grow Alaska," self-sufficiency in the production of timber and lumber. Alaskan grown, harvested, and processed timber could potentially alleviate housing pressures in Alaska.

MR. ENG said that highlights an excellent point that the forest industry has grappled with for the last 50 years. Supply and demand change rapidly. He explained that supply and demand can be influenced from anything like a glut of blown-down trees from a southeastern state's windstorm to Canadian lumber tariffs which can shift the market equation. He said that the timber market is fluid and is not a fixed target. That being said, the division wants to incentivize the domestic industry, especially in Southeast Alaska. While it is important to incentivize new investments, it is also important to maintain and keep afloat existing timber enterprises.

CHAIR REVAK commented that Senator von Imhof's "Alaskan Grown" point was well taken.

[4:22:10 PM](#)

CHAIR REVAK commented that one of the main stipulations of SB 85 is contractual certainty. He asked what the expected effects of this bill are whether it passes or fails.

MR. ENG answered that the outcome of this bill is largely unknown. It was proposed to resolve an appeals problem, which occurs after the purchase of a timber sale when the operator is primed and ready to roll. He explained that an appeal which occurs after a purchase, can stop a small to medium-sized timber company in its tracks; it can put a company out of business.

CHAIR REVAK asked whether the current system of appeals is used frivolously as a tool against the process to prevent timber sales.

MR. ENG responded that the public has a right to comment on timber sales. The five-step process illustrates that the process could be nimbler and more efficient. Not every timber sale needs five levels of public go-around and comments.

CHAIR REVAK summarized his understanding of the previous statement.

MR. ENG clarified that the five-step process includes the Forest Land Use Plan.

CHAIR REVAK set SB 85 aside.

HB 79-SALTWATER SPORTFISHING OPERATORS/GUIDES

[4:25:14 PM](#)

CHAIR REVAK announced the consideration of CS FOR HOUSE BILL NO. 79(FIN) "An Act relating to sport fishing operators and sport fishing guides; requiring the Department of Fish and Game to prepare and submit a report; and providing for an effective date."

[4:25:50 PM](#)

DOUG VINCENT-LANG, Commissioner, Alaska Department of Fish and Game, Anchorage, Alaska, introduced HB 79 on behalf of the administration. He read the following statement into the record:

[Original punctuation provided.]

Thank you for this opportunity to speak to HB 79, legislation introduced by the Governor and a department priority.

With this bill the department would like to reinstate the saltwater licensing and reporting requirements. Before amendment in House Fisheries and passage by the House, last year, it did not reinstate the freshwater licensing or reporting requirements because the department does not see an immediate need for this kind of reporting in freshwater at this time.

However, in House Fisheries the bill was amended to require licensure of freshwater operators and guides, but not require reporting by them. This was accompanied by a reduction in licensure fees for both freshwater and saltwater guides. This change has caused some concern with the freshwater operators and guides across the state. The bill was also amended in House Finance to include a resident/nonresident licensing fee differential. The amended version of the bill was passed by the House last year and is now before you.

Before I go any further let me provide you with a little bit of legislative background on this issue. The sport fish guide and operator licenses were first adopted in the 2003-2004 legislative session and took effect in 2005 and remained in effect until December 31, 2014, when they expired due to a sunset clause. This legislation was passed based on the urging of both fresh and saltwater guides who were looking to professionalize their industries and to ensure the department had information necessary to manage their fisheries.

During the 2015-2016 legislative session only the saltwater licensing and reporting requirements were reinstated with a sunset of 2018. The legislature stripped the freshwater piece from the legislation and the Department supported this as we were not using the freshwater information for in season management or assessment of fisheries. And, we were seeing minor logbook violations, for example an error in the reporting of the number of grayling released, result in loss of concession permits, notably on federal lands. This legislation sunsetted in 2018. The

legislature provided some bridge funding through UGF, but that has since gone away. As such we have no legislation in place to collect fees to pay for the marine logbook program.

Logbook data has been collected by the department from saltwater sport fishing businesses and guides since 1998 and is critical to:

- Upholding the state's US/Canada Pacific Salmon treaty obligations
- Providing data to the International Pacific Halibut Commission crucial to making allocation and management decisions
- It is also critical for the North Pacific Fisheries Management Council for managing federal fisheries, avoiding duplicative reporting requirements, and undue burden on the charter industry.
- Logbook data also supports a myriad of additional critical uses, including but not limited to; State Fisheries Monitoring & Management, Advisory Announcements & Emergency Orders, the Alaska Board of Fisheries Processes, Advisory Committees, etc...

Let me give you an example of the utility of this information in the management of saltwater fisheries. Last year, we saw significant decreases in tourism across Alaska which resulted in significant reduction in saltwater charter boat fishing. We used data from the logbook program to show that we would be significantly below our catch quotas for halibut in the charter industry and we were able to use data to relax the regulations enacted by the IPHC and allow the charter boat fishery some additional opportunity. This resulted in increased participation in halibut charter fisheries, mainly by Alaskans. It also provided a needed economic boost to the charter fisheries and local economies.

Fees collected as part of this bill would provide data necessary to manage marine charter fisheries of Alaska. These fisheries support somewhere in the neighborhood of 250,000 angler days of effort and contribute over \$1.5M to the state's economy.

In sum, the Department supports this bill as introduced by the Governor and see it as a necessary tool to fund and manage saltwater charter fisheries. We urge your support in moving this bill out of committee.

[4:30:46 PM](#)

RACHEL HANKE, Legislative Liaison, Alaska Department of Fish and Game, Soldotna, Alaska, paraphrased the sectional analysis for HB 79.

[Original punctuation provided.]

Section 1

Establishes license fees for resident sport fishing guides and operators.

- Resident guide license - \$100
- Resident operator license - \$200
- Resident operator and guide combined license - \$200

Establishes license fees for nonresident sport fishing guides and operators.

- Nonresident guide license - \$200
- Nonresident operator license - \$400
- Nonresident operator and guide combined license - \$400

Section 2

Adds new Article to AS 16.40 that

- **AS 16.40.262** - provides stipulations for the sport fishing operator license and defines the license type
 - Includes requirements such as a business license and general liability insurance
- **AS 16.40.272** - provides stipulations for the sport fishing guide license and combined operator guide license, defines both license types
 - Includes requirements such as a current sport fishing license and first aid certification
- **AS 16.40.282** - establishes the logbook reporting requirements for saltwater guides and operators. Allows the department to collect freshwater logbook information if the departments deem the information necessary.

- **AS 16.40.292** - establishes penalties for violations the of the chapter
- **AS 16.40.301** - defines "sport fishing guide" and "sport fishing guide services".

Section 3

Adds salt sportfishing operator and guide license to AS 25.27.244(s)(2) which defines "license" in statutes regarding the Child Support Services Agency.

Section 4

Uncodified law directing the Department of Fish and Game to prepare a report for the legislature proposing solutions to gathering harvest data for the saltwater rental and unguided fishing industry, due December 1, 2022.

Section 5

Effective date of January 1, 2022.

[4:32:18 PM](#)

SENATOR STEVENS recalled the courts ruled that the cost of a nonresident commercial fisheries license must equate to the cost to administer the program. He asked whether the nonresident fee increases in this bill are justifiable.

COMMISSIONER VINCENT-LANG responded that in the Carlson Case, the courts ruled that the department may not charge nonresident businesses more to operate in the state than the relative cost to administer the program. Typically, the nonresident to resident cost differential is 3 to 1. On the advice of counsel, HB 79 settled on a defensible 2 to 1 differential.

[4:33:37 PM](#)

SENATOR KAWASAKI asked whether \$600,000 was required to implement the logbook program at the department level and meet the obligations of the Pacific Salmon Treaty and International Halibut Act.

COMMISSIONER VINCENT-LANG answered that the cost is a little more than \$600,000. Limited funds from the Halibut Commission and the Salmon Treaty will supplement the cost to do portions of the logbook program. He said that \$600,000 is the unrecoverable cost associated with this program.

SENATOR KAWASAKI asked how the program was funded prior to 2004/2005 and what the bridge funds were in 2018/2019.

COMMISSIONER VINCENT-LANG answered that this was originally funded through Fish and Game's unrestricted general fund (UGF) dollars. He said that early on the guides wanted to professionalize the industry, set standards, and use data for economic analysis. The guides pushed freshwater and saltwater licensing in the original bill. Later, this information was used against the freshwater guide industry and became very controversial. The guide industry successfully let the program sunset, and the bill with it. The freshwater guide data was not used by ADFG. The department still had obligations, which Fish and Game funded through the Sportfish Division UGF and Dingell-Johnson (DJ) funds in federal aid. Since the bill did not get reapproved, the department lost the legislature's UGF bridge funds over time. He stated that the department decided to reintroduce the saltwater piece of this bill to reduce Fish and Game's dependence on UGF and recover some of those funds. The saltwater guide industry, in-large part, is supportive of HB 79.

[4:36:08 PM](#)

SENATOR KIEHL commented that this a good bill. He asked at what threshold guide-type activities define an individual as a guide. He illustrated the question, asking whether a guide/operator license would be required to put highlighter marks on an angler's chart, rent an angler a boat and rod, or sell an angler a bucket of bait.

COMMISSIONER VINCENT-LANG answered that guide activities do not include boat rentals at this point in time. The official definition of a guide means that an individual accompanies an individual, guiding.

[4:37:36 PM](#)

CHAIR REVAK opened public testimony on HB 79.

[4:38:27 PM](#)

ED MARTIN JR., representing self, Kenai, Alaska, testified on HB 79. He is a 56-year resident of Alaska. He agrees with the cost of the resident sport fishing services license but strongly disagrees with the nonresident cost. He reasoned nonresident fees should be significantly higher because:

1. Nonresident dollars are a better option for generating revenue than a state income tax, and
2. Cost prohibitive fees will reduce the number of nonresidents that obtain a guide/operator license. The reduced number of

nonresident guides/operators will create space in the industry for more local guides/operators.

SENATOR STEVENS commented later in the meeting that he appreciated Mr. Martin's testimony. Senator Stevens said that the legislature has attempted to increase nonresident fees for commercial fisheries in the past. He suggested the Department of Law brief the committee on the implications and limitations opined in the Carlson Case.

[4:41:33 PM](#)

CHAIR REVAK closed public testimony on HB 79 [and held the bill in committee.]

SB 85-FOREST LAND USE PLANS; TIMBER SALES

[4:41:40 PM](#)

CHAIR REVAK returned attention to SB 85 and opened public testimony.

[4:42:12 PM](#)

KARI NORE, Project Manager, Resource Development Council for Alaska, Anchorage, Alaska, testified in support of SB 85 and the Council submitted written comments. Ms. Nore offered the following testimony:

The Resource Development Council for Alaska (RDC) is a statewide trade association comprised of individuals and companies from Alaska's fishing, forestry, mining, oil and gas, and tourism industries. RDC's membership includes Alaska Native corporations, local communities, organized labor, and industry support firms. RDC's purpose is to encourage a strong, diversified private sector in Alaska and expand the state's economic base through the responsible development of our natural resources.

Senate Bill 85 offers small volume timber sales with greater operator efficiency. It allows the ability to negotiate sales with any use of timber resources. Senate Bill 85 allows the State to conduct timber sales more efficiently, without compromising required environmental review, public comment and process requirements, by eliminating the ability to appeal a Forest Land Use Plan (FLUP).

RDC supports Senate Bill 85 which creates greater efficiency when it comes to responsible development of our natural resources.

4:43:45 PM

TESSA AXELSON, Executive Director, Alaska Forest Association, Ketchikan, Alaska, testified in support of SB 85. She said that the Alaska Forest Association (AFA) is the forest product trade association that represents an array of members with an interest in the forest products industry in Alaska. Membership in AFA includes, but is not limited to, timber operators, contractors, equipment suppliers, fuel distributors, tribal organizations, forest product vendors, sawmills and other affiliated industry associations and private citizens.

MS. AXELSON stated that less than four percent of land in Alaska is privately owned which leaves the timber industry and the forest products industry heavily reliant on other landowners, primarily, the state of Alaska and the federal government Department of Agriculture/Forest Service (USDA/USFS). Most important to the industry is a reliable, predictable timber supply. She said that limitations on sales as a result of decisions and policies by federal landowners, USDA/USFS; Secretary Vilsack's July 2021 announcement to substantially reduce old growth harvest and transition to young growth; USFS Tongass 2016 Land Management Plan statements; prevailing market conditions that were discussed earlier, necessitate state legislation that streamlines agency processes and ensures efficient forestry planning.

MS. AXELSON gave three reasons the AFA supports SB 85:

First, the bill enables DOF to negotiate sales with any use of timber resources.

Second, the bill does away with inefficiencies in the appeals process that have existed with Forest Land Use Plans while simultaneously ensuring that required public environmental review and public comment processes are not compromised.

Third, the bill provides the state the ability to offer small timber sales with greater efficiency.

MS. AXELSON said that these changes holistically help to ensure the struggling industry is able to operate efficiently and is able to support community jobs. Above all, it will help to

ensure small business operators have the supply that allows them to continue to operate in various markets.

[4:47:17 PM](#)

ED MARTIN JR., representing self, Kenai, Alaska, testified in support of SB 85. He stated that since the 1990s the state has struggled with the Spruce bark beetle, not to mention the shut down of the Tongass National Forest when many people lost timber industry jobs. He recommended the state prioritize reforestation after forest fires. He recommended that the timber industry get going in Alaska; this bill will help.

[4:50:22 PM](#)

CHAIR REVAK closed public testimony on SB 85.

[4:50:45 PM](#)

SENATOR STEVENS jumped back to HB 79. See final comment after Mr. Martin's public testimony.

[4:51:40 PM](#)

CHAIR REVAK held SB 85 in committee.

[4:52:05 PM](#)

There being no further business to come before the committee, Chair Revak adjourned the Senate Resources Standing Committee meeting at 4:52 p.m.